

EXHIBIT 74

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**MAO DECLARATION
OPPOSITION TO SUMMARY
JUDGMENT**

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

--oOo--

ANIBAL RODRIGUEZ, et al.,
individually and on behalf of
all other similarly situated,
Plaintiffs,

vs.

Case No.

3:20-CV-04688

GOOGLE LLC, et al.,
Defendants.

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HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

VIDEO-RECORDED DEPOSITION OF ANINDYA GHOSE, Ph.D.
SAN FRANCISCO, CALIFORNIA
THURSDAY, JULY 13, 2023

Reported by:

Anrae Wimberley, CSR No. 7778

Job No. 5996136

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1 used those terms? 01:35:47

2 A. I think what I meant is, if I had meant to
3 include those concepts in any analysis, then I would
4 have explicitly mentioned them, and I know

5 Mr. Lasinski did not. So that's what I'm trying to 01:36:01
6 say.

7 Q. Okay. So because he didn't use the terms
8 "willingness to accept" and "willingness to pay,"
9 that's your criticism of Mr. Lasinski?

10 MR. HUR: Objection; misstates prior testimony. 01:36:13

11 THE WITNESS: That's one of, you know, several
12 criticisms that he missed out on the whole customer
13 heterogeneity aspect of it. He did not provide any
14 direct or empirical evidence that any of those
15 datasets were reliable benchmarks because he did not 01:36:28
16 analyze the difference or similarities between those
17 datasets and SWAA and SWAA off. He also did not
18 discuss any potential differences in the purpose of
19 those datasets.

20 So, you know, I have several reasons to 01:36:45
21 criticize Mr. Lasinski.

22 BY MR. McGEE:

23 Q. Okay. But you don't have any direct or
24 empirical evidence that suggests his use of that
25 data was mistaken, do you? 01:36:58

1 A. I mean, I have opined on the differences 01:37:04
2 between the datasets and sometimes even the
3 purpose -- the differences and the purpose of the
4 datasets, if that's what you're asking.

5 Q. And if you can turn to page 16 of your 01:37:32
6 report.

7 And I'm looking at specifically
8 paragraph 31.

9	You state that "A substantial literature	
10	finds that WTA estimates tend to be higher than WTP	01:37:50
11	estimates."	

12	Do you see that?
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13	A. Yes.
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14 Q. And I think you cite just one source for
15 that, and that's the Prince and Wallsten study? 01:38:03

16 A. I mean, that is the cite -- that's the
17 source that I've cited in that sentence, that's
18 true.

19	Q. Okay. So that would be the only	
20	literature that you have to rely on for making the	01:38:22
21	assertion that WTA estimates tend to be higher than	
22	WTP estimates?	

23 A. I mean, there may be other papers that
24 I've cited that mention that. In that sentence, I
25 only relied on it. 01:38:40

1 I know -- I think the main point here is 01:38:41
2 that these -- there are these two concepts. They
3 are nuanced concepts. And, you know, Mr. Lasinski
4 doesn't mention them.

5 Also, other academics have criticized the 01:38:56
6 use of singular concepts, like Alexander through his
7 work.

8 Oh, and your question -- the other paper
9 that mentions the difference between willingness to
10 accept and willingness to pay is the Winegar -- it's 01:39:11
11 in paragraph 32, the Winegar and Sunstein paper,
12 2019.

13 Q. Paragraph 32 you said?

14 A. Yes.

15 Q. I'll come back to that. 01:39:29

16 MR. McGEE: I'll try to get this marked in the
17 right place for the court reporter here.

18 (Deposition Exhibit 0006 was marked.)

19 BY MR. McGEE:

20 Q. I'm going to show you what's been marked 01:40:05
21 as Exhibit 0006. I have a courtesy copy for your
22 counsel.

23 MR. McGEE: And I'm going to mark this in
24 Exhibit Share.

25 So that should be in Exhibit Share for 01:41:04

1 everybody. 01:41:07

2 BY MR. McGEE:

3 Q. Dr. Ghose, have you had a chance to review

4 what's been marked as Exhibit 0006?

5 A. Yes. This is a paper that I've cited in 01:41:27

6 my report.

7 Q. Is this that Prince and Wallsten paper

8 that is cited in footnote 48 in support of what

9 we've just been speaking about, the WTA and WTP

10 relationship? 01:41:43

11 A. That's the right paper, yeah.

12 Q. Okay. And if I can draw your attention to

13 page 856.

14 So there's page numbers at either -- yeah,

15 they're -- it's the top right or the top left 01:42:02

16 depending.

17 For this one, it's at the top left, so the

18 paper clip is probably going to be in the way for

19 you.

20 A. Yes. 01:42:22

21 Q. Do you see that last paragraph there, that

22 "Because of our unique focus"?

23 A. I see that, yeah.

24 Q. Okay. And you reviewed this entire piece

25 of literature in considering the opinions in your 01:42:35

1 case -- in your expert report; correct? 01:42:38

2 A. I mean, generally, when I'm citing
3 something, I read the full paper, that's true.

4 Q. Okay. And you see here that -- can you
5 read that sentence that starts with "Because of our 01:42:56
6 unique"?

7 A. Sure.
8 "Because of our unique focus on specific
9 platforms and types of data across countries, few
10 other results exist to compare against our own." 01:43:10

11 Q. Okay. And then do you see later in this
12 paragraph where they admit that the study -- that
13 this study specifically did not ask about smartphone
14 apps?

15 And you can read the entire paragraph, if 01:43:33
16 you need.

17 A. I mean, they say [as read]: While we do
18 not ask about smartphone apps explicitly, we explore
19 how much people are willing to accept to allow their
20 smartphones to share their location. 01:43:50

21 Q. Right. But they don't ask about
22 applications; correct?

23 A. Not explicitly at least.

24 Q. Okay. So their comparison between WTA and
25 WTP is about cell phone location data? 01:44:06

1 A. Amongst other things because, I think, to 01:44:12
2 be more precise, the earlier tables -- give us a
3 moment and I'll give you more information.

4 So the location data, sharing contacts,
5 sharing browsing history and sharing cash 01:44:27
6 withdrawals, sharing fingerprints, sharing voice
7 prints. So if you go to your earlier tables, you
8 will see the other things they are sharing.

9 Q. Sure. And which earlier tables are you --

10 A. Tables 2A, 2B, 2C. 01:44:45

11 Q. And you see here that they value the WTA
12 at a \$1.20; correct?

13 A. I'll have to go to the page here.

14 On page 857, yes, I see they mention that
15 WTA as 1.2 for smartphones -- in the U.S. for 01:45:12
16 smartphones.

17 Q. And that's for all of the data that you
18 just described the access to, contacts, browsing
19 history, fingerprints?

20 A. I'm not sure exactly how they arrived at 01:45:27
21 it, but it could be that they've taken the average
22 across multiple categories because what they say in
23 the sentence, at least, they are saying it's the
24 next to accept in the U.S. for smartphones, and
25 assuming most of these attributes are available 01:45:45

1 through the smartphones, that might be the case, 01:45:48
2 they've taken the average.

3 Q. Okay. And would there be a problem with
4 taking the average to calculate the WTA?

5 A. No. I was just trying to answer your 01:46:00
6 question.

7 I mean, some of these WTA numbers I'd
8 expect to vary across some examples, which is pretty
9 common in sort of this methodology.

10 If you just do WTA for location, it might 01:46:10
11 be different from fingerprinting or cash
12 withdrawals, and I don't know if they have done that
13 here, but that number seems to be the average across
14 the categories.

15 Q. Okay. But, again, they calculated that 01:46:25
16 number by averaging across the categories and coming
17 up with one WTA value of \$1.20 for United States
18 smartphones; right?

19 MR. HUR: Objection; assumes facts.

20 THE WITNESS: I don't know for sure. I mean, 01:46:39
21 I'm just assuming that it's likely the methodology
22 because they basically have some progression results
23 here, so I assume they've taken the margin of X from
24 the regressions and converted them into, you know,
25 some dollar value. 01:46:57

1 BY MR. McGEE: 01:46:58

2 Q. Okay. And then if you go to the next

3 paragraph, there's some WTP and WTA figures here.

4 Do you see those?

5 A. Yes. I see the -- their WTA figure seems 01:47:11

6 to be 1.06, but they also have numbers from the

7 authors of the paper of Savage and Waldman, who are

8 the ones -- they focus on apps.

9 Q. And those Savage and Waldman figures were

10 a WTP of \$4.05 and a WTA of \$5.11? 01:47:33

11 A. Yes, that is correct.

12 Q. And then there's also a WTP of \$2.12 to

13 eliminate advertising in apps and then a WTA of

14 \$1.06 to eliminate advertising in apps in the U.S.

15 on smartphones? 01:48:08

16 A. Yeah, the two numbers are from two

17 different papers, just to be precise, but yes, those

18 numbers are mentioned.

19 Q. Okay. And so did you see anything else in

20 this literature to suggest any other values for WTA 01:48:18

21 or WTP?

22 MR. HUR: Objection; vague.

23 THE WITNESS: You mean -- when you say in the

24 literature, you mean outside the scope of these

25 papers? 01:48:31

1 BY MR. McGEE: 01:48:32

2 Q. No, this paper that you've cited in your

3 report.

4 A. Oh. I mean, I don't recall if there are

5 other numbers, but I'm happy to take a look. 01:48:39

6 Q. If you need to, sure.

7 A. I think the conclusion section they have

8 1.2. And this section has, you know, different

9 papers with the different numbers.

10 I mean, there are some numbers mentioned 01:49:19

11 on page 854. There's some numbers mentioned on

12 page 852. And, of course, in table 1C, 1D, 1A and

13 1B, there's a whole, you know, range of numbers from

14 a range of countries.

15 Q. And what about for the United States, 01:50:05

16 what's the range of those numbers for WTA?

17 A. So if I look at table 1A, seems like it

18 goes from \$0 to \$4.25. That's the amount they are

19 willing to receive in monthly payments from the

20 bank. 01:50:32

21 And there may be other U.S. numbers that

22 I'll have to dig into and find out.

23 Q. So that was in table 1A?

24 A. 1A, 1B and 1C and 1D, they all have the

25 same range for the United States. 01:50:51

1 Q. And that range, again, is anywhere from \$1 01:50:56
2 to maybe 6 or \$7?

3 A. No. The tables I mentioned, their ranges
4 are from \$0 -- so some people are actually not
5 getting any money -- to \$4.25. I think the upper 01:51:10
6 bound is that's what they are saying.

7 Q. Okay. And that zero to \$4.25, it doesn't
8 really differ much from Mr. Lasinski's calculations
9 in this case, does it?

10 MR. HUR: Objection; vague. 01:51:28

11 THE WITNESS: I mean, it doesn't make it right.
12 If you're asking me if the number 3 falls between 0
13 and 4.25, that is mathematically true, but it
14 doesn't make his analysis right.

15 BY MR. McGEE: 01:51:39

16 Q. Well, it's one of the pieces of his
17 analysis, but you didn't analyze the other part.
18 You only analyzed actual damages in this case;
19 correct?

20 A. Yes. I'm just talking about his dollar-3 01:51:46
21 number, that's all.

22 Q. Yeah, the single dollar-3 payment?

23 A. The one-time payment, yes.

24 Q. Yeah. And it falls right within that
25 range -- really, the upper bound of that range 01:51:56

1 between 0 and \$4.25? 01:51:59

2 A. And like I said, mathematically it does,
3 but it doesn't make it right.

4 Q. Okay. Well, what would make it right?

5 What more would he have done, in your opinion, to 01:52:08
6 further justify the number \$3 that fall within this
7 range that's in this one piece of literature that
8 you cite for WTA and WTP figures?

9 A. So like I said, I think it's not just the
10 fact that he missed out describing WTA or WTP, but 01:52:26
11 more fundamentally, he's completely missed out
12 discussing heterogeneity in customer preferences for
13 privacy, the existence of the privacy paradox, you
14 know, differences in reasons why people have
15 different preferences and how they change over time. 01:52:47
16 He just completely ignored the whole notion of
17 heterogeneity in privacy.

18 Q. Do you know if Google did any studies of
19 heterogeneity in privacy when it developed the
20 Screenwise Panel? 01:53:01

21 A. I don't know about that, but like I said
22 before, in footnote 42, 43, 44, 45, I cited Google
23 user's study in privacy where, as I've said in my
24 report, for example, within a 6-month period -- so
25 they sample 1 percent of their consumer base, which 01:53:19

1 was 36 million people, and within the 6-month 01:53:24
2 period, up to 78 percent of people displayed no
3 privacy behavior, and over a longer duration, beyond
4 6 months, up to 44 percent of people displayed no
5 privacy behavior. 01:53:45

6 So to answer your question, I know they
7 have done studies in Google. I'm not aware of any
8 study they have done for Ipsos.

9 Q. Do you know if they disclosed to the users
10 that they would be conducting that study on that 01:53:57
11 sample?

12 MR. HUR: Objection; vague.

13 THE WITNESS: I don't know the answer to that.

14 BY MR. McGEE:

15 Q. But, again, for Screenwise, when Google 01:54:10
16 offered \$3 to a user to come into the Screenwise
17 program, you're not aware of any study or any factor
18 that Google considered with regard to the
19 heterogeneity of the privacy preferences of those
20 individuals? Google was essentially blind to the 01:54:28
21 privacy preferences for anyone who signed up?

22 MR. HUR: Objection; lacks foundation.

23 THE WITNESS: I'm not aware of one way or the
24 other. They may have done it. I don't know.

25 MR. McGEE: Okay. I think we've been going for 01:54:44

1 about an hour, so makes sense for a break. 01:54:45

2 THE VIDEOGRAPHER: This marks the end of Media

3 No. 4. Off the record. The time is 1:54.

4 (Recess taken.)

5 THE VIDEOGRAPHER: This marks the beginning of 02:15:58

6 Media No. 5 in the deposition of Dr. Anindya Ghose.

7 We're back on the record. The time is 2:16.

8 BY MR. McGEE:

9 Q. Okay. And if I can draw your attention to

10 paragraph 21 -- or, excuse me, page 21. 02:16:12

11 MR. McGEE: I'm going to introduce what's been

12 marked as Exhibit 0007, which is apparently

13 uploading on Exhibit Share. I've got a courtesy

14 copy for your counsel.

15 And this is going to be a deposition 02:16:35

16 transcript of one of the plaintiffs in this case,

17 Sal Cataldo.

18 (Deposition Exhibit 0007 was marked.)

19 BY MR. McGEE:

20 Q. Have you seen this before, Dr. Ghose? 02:16:42

21 A. Yeah. I mean, I've cited it in

22 footnote 67.

23 Q. Right.

24 And this is a physical copy, you may have

25 seen a digital copy, but you're generally familiar 02:16:52

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1 MR. HUR: -- foundation. 02:25:24

2 THE WITNESS: I'm not sure I follow. Are you

3 asking if the plaintiffs who join a class action

4 should change their behavior or --

5 BY MR. McGEE: 02:25:34

6 Q. No. So Mr. Cataldo, who you believe

7 wouldn't change his behavior in this case based on

8 your review of that portion of the testimony, do you

9 think that his joining this case to advocate against

10 Google's practices is a change in behavior after he 02:25:48

11 learned about all of the ways that Google was

12 collecting his data when he thought that it wasn't?

13 MR. HUR: Objection; lacks foundation, assumes

14 facts.

15 THE WITNESS: I mean, I don't have an opinion 02:26:01

16 on that.

17 The only point I was trying to make is

18 that, you know, did he change his behavior on the

19 phone, for example, and he said he's not going to

20 stop using any of the apps. 02:26:11

21 BY MR. McGEE:

22 Q. But I think he does say that he's going to

23 be more careful about how he may or may not use his

24 phone; right?

25 A. Phone, yes -- I'm sorry. Go ahead. 02:26:21

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